

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VON CEDRIC LARRY,

Petitioner,
v.

Case No. 10-13047

STEVEN RIVARD,

HON. AVERN COHN

Respondent.

**ORDER DENYING AS MOOT PETITIONER'S MOTION FOR A CERTIFICATE OF
APPEALABILITY (Doc. 34)
AND
DENYING PETITIONER'S APPLICATION TO PROCEED IN FORMA PAUPERIS ON
APPEAL (Doc. 33)**

This is a habeas case under 28 U.S.C. § 2254. Petitioner Von Cedric Larry (Petitioner) is a state inmate serving a sentence of 99-145 years imprisonment following his conviction for solicitation to commit murder, M.C.L. §750.157b, and being a fourth habitual offender, M.C.L. § 769.12. Petitioner filed a pro se petition for writ of habeas corpus contending that he is incarcerated in violation of his constitutional rights. The Court denied the petition for lack of merit. (Doc. 30). The Court also denied a certificate of appealability (COA) finding that reasonable jurists would not debate the Court's conclusion. (Doc. 30).

Before the Court is Petitioner's motion for a COA and application to proceed in forma pauperis on appeal. (Docs. 33, 34).

Because the Court has already denied a COA, Petitioner's motion is MOOT. Moreover, the Court has reviewed the motion and finds nothing in it which changes the conclusion that Petitioner is not entitled to a COA.

As to Petitioner's application to for leave to proceed in forma pauperis, Fed. R. App. P. 24(a)(1) provides that a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. An appeal may not be taken in forma pauperis if the court determines that it is not taken in good faith. 28 U.S.C. § 1915(a)(3). "[T]o determine that an appeal is in good faith, a court need only find that a reasonable person could suppose that the appeal has some merit." Walker v. O'Brien, 216 F.3d 626, 631 (7th Cir. 2000). The Court finds that an appeal could not be taken in good faith. Accordingly, Petitioner's application proceed in forma pauperis on appeal is DENIED.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: February 10, 2015
Detroit, MI

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, February 10, 2015, by electronic and/or ordinary mail.

S/Sakne Chami
Case Manager, (313) 234-5160